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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,563	12/01/2004	Axel Hinz	PC10452US	5121

23122 7590 06/27/2007  
RATNERPRESTIA  
P O BOX 980  
VALLEY FORGE, PA 19482-0980

EXAMINER
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FRANTZ, JESSICA L

ART UNIT	PAPER NUMBER
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3746

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/516,563

Applicant(s)

HINZ ET AL.

Examiner

Jessica L. Frantz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/1/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it is currently comprised of three paragraphs and should be reduced to a single paragraph. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 16 recites the limitation "the stop-sided housing part" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 19 recites the limitation "pivot axis" in eighth line of the claim. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 20 recites the limitation "the ring" in the last line of the claim. There is insufficient antecedent basis for this limitation in the claim..

### ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Finkbeiner et al. 5,997,262. Finkbeiner teaches the invention as claimed including a motor/pump unit 20 which can be used for slip-controlled motor vehicle brake systems, including an accommodating member 28 for hydraulically active components, an internal gear pump 22 arranged in a bore of the accommodating member and comprising pump components such as a pinion/internal gear combination 64, 68 arranged between two

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housing parts 60, 72, the pump components forming a pre-assembled unit including a motor 24 for driving the internal gear pump, wherein the housing parts are arranged preliminarily by at least one securing element 74. Regarding the limitation "the final alignment of the housing parts relative to each other takes place when the unit is inserted into the accommodating member," It has been held that while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim. Therefore, since the structure of Finkbeiner is capable of performing such a process, it meets the limitations of the claim. Furthermore, Finkbeiner teaches the securing element connects the housing parts with a relative clearance to each other (i.e. the thickness of ring 62), and in that a bore is provided in the accommodating member for the alignment of the housing parts in a radial direction as clearly shown in figure 1. Furthermore, as shown in figure 1 and discussed in Finkbeiner column 8, lines 12-39), a first housing part 72 is fixed on the accommodating member so as to be undisplaceable in an axial direction and in a radial direction, and in that the first housing part is provided to lock the pump components in the accommodating member and wherein a pin 74 with a first end 98 is provided as a securing element which is press fitted into a bore 176, 174 of one of the housing parts, and in that the pin

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includes a second end 94 with a stop 92 for securing another housing part in position wherein the pin is arranged in parallel to a pump shaft 76. Furthermore, Finkbeiner teaches the pin includes a cylindrical portion 102, which extends through a bore 148 of the stop-sided housing part, and in that the bore has a diameter that is larger compared to the cylindrical portion, and in that the diameter is smaller compared to the stop (see figure 3) and also that a maximum of three pins (shown with two spaced 180 degree intervals) are provided, and in that the pins are arranged at a regular angle  $\alpha$  relative to each other. Finkbeiner also teaches the internal gear 64 is supported in a ring 62 that is arranged in an axial direction between the housing parts as shown in figure 2 where the pin is supported in bores of the housing parts.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finkbeiner et al. 5,997,262 in view of Pippes et al. WO 02/070898. For Translational purposes please see Pippes et al. 2003/0161748. Finkbeiner teaches the invention as claimed but fails to teach the following claimed limitation as taught by Pippes: a ring 5 which is pivotal relative to the housing parts 11, 12 about a pivot axis (A) (the axis of pin 22) that is arranged in parallel to a pump shaft wherein a housing part accommodates

an end of a spring element 25, and in that another end of the spring element is engaged in a bore of the ring as clearly shown in figure 3. Pippes teaches the use of the pivot and spring for the purpose of providing a pivotal axis for the ring and for delimiting the pivotal path by a pre-designed measure (see Pippes paragraphs [0024-0025]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included the pivot and spring for the purpose of providing a pivotal axis for the ring and for delimiting the pivotal path by a pre-designed measure (see Pippes paragraphs [0024-0025]).


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica L. Frantz whose telephone number is 571-272-5822. The examiner can normally be reached on Monday through Friday 8:30a.m.-5:00p.m. E.S.T..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JF  
ANTHONY D. STASHICK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700